

Supreme Court Board of Legal Document Preparers

Arizona State Courts Building
1501 West Washington, Phoenix, AZ 85007
Conference Room 230
10:00 a.m. - 2:00 p.m.

February 23, 2004
Approved Regular Minutes

Members Present:

Judge Roland J. Steinle, III, Chair
Carol L. Wells
Dr. Roger E. Hartley
Donald F. Steward
J. Ward Sturm
Susan C. Vasquez
Margaret J. Kleinman
Vellia M. Pina
Nancy Swetnam
Mary Carlton

AOC Staff Present:

Linda Grau
Nina Preston
Lauren Hargrave
Arturo Rodriguez

Guests:

Teri Hale
Tina Wilson
Lory Toon
Stephanie Villalobos
Debra Dencek
Douglas Brooks
Kathryn Underwood

Members Present by Phone:

Virlynn Tinnell

Call to Order

The meeting was called to order by Judge Roland Steinle, III at 10:05 a.m.

Review and Approval of Meeting Minutes

Discussion was held regarding the regular session minutes of January 26, 2004. Linda Grau reported Nancy Swetnam requested grammatical and clerical changes be made to the minutes. Margaret J. Kleinman requested grammatical and clerical changes be made to the minutes. These changes will be given to Lauren Hargrave for correction.

A **motion** was made by Margaret J. Kleinman and seconded by Mary Carlton to adopt minutes of January 26, 2004, as amended. Motion passed. **LDP-04-039**

Administrative Issues

Review and discussion of proposed amendments to the Initial Individual and Initial Business Entity certification applications.

Ms. Grau reported changes requested at the last Board meeting have been made. The proposed changes have arisen through an assessment of the application process and/or the denial hearing process. All personal identifier information should be contained on the first page of the applications. In the event of a public information request, confidential information can be removed and documents can be redacted efficiently.

Review and discussion regarding 2004 Renewal applications.

Ms. Grau reported the proposed renewal applications are also designed to protect the same personal identifier information. Some background questions not covered in the 2003 initial certification application have been added. Additionally, a continuing education credit request form has been included with individual renewal application, as well as a CE attendance reporting.

The Board discussed the individual renewal application and requested the signature line be placed above the notary statement and signature. Ms. Grau stated this will be adjusted throughout the renewal and initial applications.

A **motion** was made by Mary Carlton and seconded by Susan C. Vasquez to approve the renewal applications subject to moving the signature block and correcting typographical errors. Motion Passed. **LDP-04-040**

Report and recommendation regarding implementation of a standardized Request of Hearing Form.

Linda Grau reported she contacted the Attorney General's Administrative Law section and requested them to look over the proposed Request for Hearing form. The Code requires a factual basis and a relief demand from those requesting a hearing. The Attorney General's Office recommended two forms; one requesting hearing on denial, and one requesting hearing on formal charges. All requirements in the Code were covered in the contents of the proposed form. The Board directed the Program Coordinator to prepare two separate forms and report back to the Board with a draft of each. Ms. Grau will receive written suggestions from Board members through email.

A **motion** was made by Margaret Kleinman and seconded by Mary Carlton to differ consideration of the standardized form until the March meeting. Motion Passed. **LDP-04-041**

Hearing Regarding Denial

Judge Roland J. Steinle reported this is a continuation of a hearing regarding Ms. Teri Hale's denial of certification. Ms. Hale was given an additional opportunity to present

information to the Board. Ms. Hale called Ms. Tina Wilson, her former secretary, to testify and supplied the Board with the requested additional documentation. Ms. Wilson addressed the Board and explained she reviewed the business entity application with Ms. Hale. Ms. Wilson indicated she had placed herself on the application as a “Partner” because of previous discussions between her and Ms. Hale. Ms. Wilson acknowledged she was not a partner at the time the application was submitted. The Board questioned Ms. Wilson regarding her completing the application and Ms. Hale signing it. Ms. Wilson confirmed she took the application to Rose Simpkin for notarization outside of Ms. Hale’s presence. Ms. Wilson stated she submitted the application because she believed it was Ms. Hale’s last chance to become certified because of the adversarial matters which were pending in the Bankruptcy Court at the time. Ms. Wilson admitted she has signed Ms. Hale’s name and signature to documents and that she notarized documents for others without having them present. Ms. Hale addressed the Board and requested they look at her medical records.

Executive Session #1

A **motion** was made by Judge Roland J. Steinle and seconded by Margaret J. Kleinman to go into Executive Session to discuss records exempt by law or rule from public inspection or for advice of counsel. Motion passed. **LDP-04-042**

Executive Session #1 ended.

The Board asked Ms. Hale if she would consent to providing the Board with on-going information and documentation. Ms. Hale agreed. At the time of renewal Ms. Hale would be required to submit detailed documentation as detailed in the Consent Agreement. The Board requested Ms. Hale consent to surrendering her notary and be fully compliant with all notary rules of the Secretary of State, including taking the four hour course offered by the Secretary of State. Ms. Hale agreed to all of the suggested terms and to entering a Consent Agreement.

A **motion** was made by Judge Roland J. Steinle and seconded by Susan C. Vasquez that a Consent Agreement outlining the terms discussed be drafted. Ms. Hale will execute the Consent Agreement and the Board authorizes Judge Roland J. Steinle to sign the Consent Agreement on behalf of the Board. Motion passed. Nancy Swetnam and Margaret Kleinman Recused. **LDP-04-043**

A **motion** was made by Judge Roland J. Steinle and seconded by Susan C. Vasquez to approve initial individual certification of Teri Hale subject to Ms. Hale’s execution of the Consent Agreement outlined on the record. Motion passed. Nancy Swetnam and Margaret Kleinman Recused. **LDP-04-044**

Certification and Eligibility

Report and recommendations regarding Continuing Education course credit approval.

Ms. Grau recommended the Board consider the course curriculums submitted for two as to whether or not potential issues of UPL exist regarding preparing Wills and Trusts. Ms. Grau has concerns whether or not the programs (“Top Ten Estate Planning Wealth Transfer and Asset Protection Techniques” and “The Living Trust & Probate Avoidance Course”) were presenting materials on how to give legal advice. The Board discussed the courses and if the classes are relevant to legal document preparation. The concern is information and recommendations are being made regarding what form of trust is best for the customer. The Board discussed how violations of UPL would be addressed and how restrictive the Board wants to be on continuing education opportunities. If the Board wishes to discuss continuing education issues relative to UPL they will do so on another agenda.

Ms. Grau reported a formal request has been made by the Maricopa Alternative Dispute Resolution Association to present information regarding certification. The Association has requested any seminar or curriculum education presented at their monthly meetings be considered a pre-approved CE program. Ms. Grau recommended the Board pre-approve all seminars and curriculum education presented at the Maricopa Alternative Dispute Resolution Association. The Board discussed a blanket pre-approval of all continuing education opportunities. The Board requested the Association give the Board the next six months worth of agendas and the Board will look at pre-approving as they arise. The Board will readdress the issue of blanket pre-approvals at next month’s meeting.

The following continuing education events were submitted for Board approval of credit:

1. “Real Estate Purchase & Sale Transaction” presented by Sterling Education Services on December 16, 2003.
2. “The Premier Multi-State Lien Law Seminar of the Southwest” presented by Southwest Business Credit Services on April 23, 2004.
3. ”2004 CCH Federal Tax Course” presented by the Arizona Society of Practicing Accountants from September 9, 2003 through October 28, 2003.
4. “Resolving Client Tax Liabilities” presented by Richard Pooley & Associates on September 22, 2003.

A **motion** was made by Judge Roland J. Steinle and seconded by J. Ward Sturm to approve the above listed Continuing Education courses for hour-for-hour credit as pre-approved continuing education opportunities. Motion Passed. **LDP-04-045**

The following continuing education events were submitted for Board approval of credit:

5. “Top Ten Estate Planning Wealth Transfer & Asset Protection Techniques For Your Top Five Clients” presented by the Financial Planning Association of Greater Phoenix on February 13, 2004.
6. “The Living Trust & Probate Avoidance Course” presented by the Center for Continuing Education.

A **motion** was made by Judge Roland J. Steinle and seconded by Nancy Swetnam to approve the above listed Continuing Education courses for hour-for-hour credit as pre-approved continuing education opportunities. However, the requirement of not more than 50% of credits can be used in any one program for continuing education. Continuing Education credits do not carry over to the next renewal period. Motion Passed. **LDP-04-046**

Discussion regarding development of the legal document preparer certification examination process.

Nancy Swetnam reported pursuant to the Arizona Code of Judicial Administration §7-208 all certificate holders must hold Standard Certification by July 1, 2005. All standard certificate holders will be required to pass a written examination. National standards are used to develop a written exam. Each exam is produced through a process which employs an independent exam validator to assist the Board in the development and pre-testing of the test to insure the exam is valid. This process is recommended because if someone fails the exam and challenges the exam, the Board will have documentation in place showing the validity of the test. Ms. Swetnam explained the basic steps when developing an exam. First, is a job analysis which identifies the basic core competencies of a legal document preparer. Second, the Board will define test specifications which are based on Court Rules. Third, a passing score will be determined. The fourth step is to administer the test make a post test analysis.

For the Board to hire a test validator, a request for bid must be announced. Once a bid is accepted a contract is signed, Ms. Swetnam suggested forming a Subcommittee to work on the testing process. The Subcommittee should consist of a diverse group of interested parties. Ms. Swetnam suggested the Board consider how many times the exam should be administered and where. Ms. Swetnam spoke to many different possibilities for location and times. According to the Arizona Code of Judicial Administration §7-208 section (E)(4)(b)(3), a legal document preparer who fails the exam may take it again once in within 6 months. A second failed exam requires a waiting period of one year before the test can be taken again. Once times and locations are determined by the Board, the exam will be offered to new applicants applying to become a certified legal document preparer. The Board discussed administering the exam beginning in January of 2005. If test vendoring and development begins now, work on the exam could potentially start at the end of 2004. The Board would like to start to work on the exam process immediately. Ms. Swetnam reported an adequate bank of questions will be necessary to make different versions of the test. The Board discussed having the test available online and utilizing a testing monitor. The Board discussed reviewing demographics and instructed Ms. Grau to prepare a per-county assessment of the AZCLDPs and supply the Board with the information at the next Board meeting. At the next meeting, the Board members will bring back information on individuals who may be interested in serving on the Subcommittee. Lauren Hargrave will reserve the Judicial Education Center now for potential test dates. The full Board can participate in the job analysis process. However, Board members who are certified legal document preparers cannot participate in developing test questions because it would give them an unfair advantage. Once the AZCLDP Board members take and pass the exam they may be permitted to be involved in revisions to the exam. The Board discussed Arizona Code of Judicial Administration

§7-208, Appendix B, relative to the fee for taking the exam. The fee for testing is applicable only to those who are applying for certification for the first time.

Report Regarding Pending Complaints

Subcommittee report regarding request for the Board to petition the Superior Court for a Cease and Desist Order regarding Joseph Estrada, a non-certified individual who is engaging in legal document preparation without certification.

Linda Grau reported speaking with Bob James, the Court Administrator who manages the Superior Court in Maricopa County Self-Service Center, regarding Mr. Estrada. Ms. James stated he will educate staff to Mr. Estrada's practice on the property. The staff will monitor Mr. Estrada's presence at the facility. In the event a Petition for Cease and Desist is filed it would not prohibit Mr. Estrada from entering the Self-Service Center. The Self-Service Center has begun distributing the previously approved LDP Program information flyer with form packets. The Board discussed sending a letter to Mr. Estrada indicated he is not licensed and he should not be engaging in the practice of soliciting customers at the Self-Service Center. Further complaints will result in the Board petitioning the Superior Court for a Cease and Desist Order.

Report regarding resolved non-certificate holder complaints.

Linda Grau reported numerous complaints being filed regarding non-certificate holders. Formal notice of the certification requirement was sent to the subjects of these complaints along with necessary follow-up. In some situations, confirmation was made that the individual and organizations confirmed they are not preparing legal documents or are doing so under the supervision of an attorney in good standing with the State Bar of Arizona. Of the non-certificate holder complaints, establishing written contact resulted in approximately 35 new applications being received and processed. Currently, there is no formal process for closing non-certificate complaints. In response to some complaints, Board has petitioned the Superior Court for Cease and Desist Orders. If the Board has Petitioned for Cease and Desist orders the complaint is technically still open until such time as the Court makes a determination as to Cease and Desist. Ms. Grau recommends the Board formally terminate/close resolved non-certificate holder complaints.

A **motion** was made by Judge Roland J. Steinle and seconded by Susan C. Vasquez, other than the cease and desist petitions mentioned, adopt a formal procedure to terminate/close a file on the recommendation of the administrative staff. Motion Passed. **LDP-04-047**

A **motion** was made by Judge Roland J. Steinle and seconded by Dr. Roger E. Hartley to terminate resolved non-certificate holder complaints as recommended by the Program Coordinator, maintaining and open/active status for complaints pending Cease and Desist action. Motion Passed. **LDP-04-048**

Review of Applications

Linda Grau reported there are several applicants on the Executive Summary which require additional information from the applicant and Ms. Grau recommends these applications be deferred.

Guadalupe Sapien
ABC Legals, LLC
Ronald Strawn
Jane Rossi

Rose Puma
Douglas Brown
Wilson, Keller and Associates, LLC
A-Z Legal Document Preparers

A **motion** was made by Judge Roland J. Steinle and seconded by Donald F. Steward to defer consideration on the above listed applications pending further investigation and information from the applicant. Motion Passed. **LDP-04-049**

Linda Grau recommended Central Arizona Paralegal Services, Inc. be denied certification pursuant to ACJA §7-208 (E)(5)(b)(1)(c) based on the contradictory information Mr. Pilkington provided in his application for certification, the hearing on the denial of his individual application, and further conflicting information presented to the Program regarding the ownership structure and interest of Central Arizona Paralegal Services, Inc. Further, Ms. Grau Central Arizona Paralegal Services, Inc. be denied certification pursuant to ACJA §7-208 (E)(5)(b)(1)(g), based on the designated principal having had has any occupational or professional license denied, revoked or suspended.

In a hearing of the Board held on July 28, 2003, Mr. Pilkington testified he had recently sold Justice For Judgments. Yet, in September 2003, Mr. Pilkington entered into a Consent Agreement with the Department of Banking after a finding was entered that he and the Justice For Judgments were conducting collection activities without a license to do so. In September of 2003, identifying himself as the owner for Justice For Judgments, Mr. Pilkington accepted and entered into a Consent Agreement with the Department of banking which included sanctions. The timeline of the events detailed the Department of Banking actions that are noted in the Consent Agreement clearly represent Mr. Pilkington had full knowledge of the adversarial action during the processing of his individual application for legal document preparer certification and it was not disclosed on the application, any subsequent documentation, or during the hearing on the original denial of Mr. Pilkington's individual application. The matter was disclosed on the Central Arizona application. Additionally, as to the ownership and corporate structure of Justice For Judgments, the Nevada Corporate Commission database reflects that since March 2003, Richard Berry is the President and Secretary of Justice For Judgments. The Board discussed whether the Consent Agreement and sanctions constituted having a license denied, revoked or suspended and the appearance of misrepresentation regarding the ownership of Justice For Judgments.

Regarding the true ownership and structure of Central Arizona Paralegal Services, there have been several contradictions and possible misrepresentations. On July 28, 2003, Mr. Pilkington testified to the Board at the denial hearing he is not operating as Why Pay A Lawyer in Casa Grande. However, Mr. Pilkington repeatedly stated during the hearing that it was his desire to become certified as an individual in order to pursue opening a

Why Pay A Lawyer office in Casa Grande. In unrelated hearings and depositions, both Jean Berry and Richard Berry have testified Mr. Pilkington is, in fact, operating a branch of Why Pay A Lawyer in Casa Grande.

Additionally, Denise Pilkington, an officer of the corporation, has had a number of convictions including five DUI's and a felony possession of narcotics. Court records provided with application also disclose that in November of 2003, Mr. Pilkington was convicted of misdemeanor DUI. The Board discussed ACJA §7-208 (E)(5)(b)(a)(4).

Central Arizona Paralegal Services, Inc

A **motion** was made by Nancy Swetnam and seconded by Mary Carlton to defer consideration on the above listed applications pending further review and the resolution of administrative matters. Motion Passed. **LDP-04-050**

The following legal document preparers and business entities request they be granted Initial Individual/Business Entity Certification based on documentation provided showing all qualifications for Initial Certification have been met. Linda Grau reports the applications are complete, demonstrate the minimum eligibility requirements have been met by the applicant, and no additional information has been presented during the background review. She recommends these applicants be granted certification.

Emerald Capital Preservation of Arizona, LLC
Cameron Hannum
Arizona Contractor Exam Services
Dennis Digregorio

Kathleen Mount
Dolores Dixon
Martin Karp
Kaye Nagle

A **motion** was made by Judge Roland J. Steinle and seconded by Nancy Swetnam to grant Initial Individual/Business Certification to the applicants listed above, based on documentation provided showing they meet all qualifications for Initial Certification. Motion Passed. **LDP-04-051**

The following legal document preparer requested he be granted Initial Individual Certification based on documentation provided showing all qualifications for Initial Certification have been met. Linda Grau reported the application is complete, has demonstrated the minimum eligibility requirements have been met by the applicant, and no additional information has been presented during the background review. She recommends the applicant be granted certification and be requested to submit written acknowledgment of the Code of Conduct prohibition regarding the use of J.D., Esquire, etc.

Mark Klarich

A **motion** was made by Judge Roland J. Steinle and seconded by Virlynn Tinnell to grant Initial Individual Certification to the applicants listed above, based on documentation provided showing he meets all qualifications for Initial

Certification, and request Mr. Klarich submit written acknowledgment of the Code of Conduct prohibition regarding the use of J.D., Esquire, etc. Motion Passed. **LDP-04-052**

Ms. Grau reported Robert Hockensmith has confirmed the issue which arose from the Board of Accountancy is the same issue as Maricopa County Superior Court case CV1996-015829. The action at the Board of Accountancy was terminated upon Mr. Hockensmith's completion of additional continuing education. At present, Mr. Hockensmith holds a certificate in good standing with the Board of Accountancy. The Board discussed the Consent Order Mr. Hockensmith entered into with the Board of Accountancy. Ms. Hockensmith has previously been certified as an individual and is the designated principal for Robert Hockensmith, PC. Mr. Hockensmith is an officer of the company and is not applying for individual certification. The Board suggested strongly advising the applicant future information should be upfront and forthcoming.

Robert Hockensmith, PC

A **motion** was made by Judge Roland J. Steinle and seconded by Virlynn Tinnell to grant Initial Individual/Business Certification to the applicants listed above, based on documentation provided showing they meet all qualifications for Initial Certification. Motion Passed. **LDP-04-053**

Linda Grau reported Christian Faith Fellowship Ministry, Inc. has a pending administrative matter yet to be resolved.

Christian Faith Fellowship Ministry, Inc

A **motion** was made by Nancy Swetnam and seconded by J. Ward Sturm to defer consideration on the above listed application for 30 days. Motion Passed. **LDP-04-054**

Linda Grau reported receiving no response for additional information from the designated principal for Caprenos, Inc. The Board instructed staff to send the principal a second letter which will state if no additional information is received within 30 days the application will be denied as being incomplete.

Caprenos, Inc.

A **motion** was made by Judge Roland J. Steinle and seconded by J. Ward Sturm to defer consideration on the above listed application for 30 days. Motion Passed. **LDP-04-054**

Linda Grau reported the designated principals for the following entities have submitted Business Entity Exemption Requests and recommended approval of these exemption requests.

Blackwood, LLC
Emerald Capital Preservations of Arizona, LLC.

A **motion** was made by Judge Roland J. Steinle and seconded by Nancy Swetnam to grant Business Entity Exemption to the applicants listed above, based on documentation provided showing they meet all qualifications for Business Entity Exemption. Motion Passed. Carol Wells Recused. **LDP-04-055**

Linda Grau reported the Business Entity Application has been deferred and requested deferral on the Business Entity Exemption Request for Central Arizona Paralegal Services, Inc.

Central Arizona Paralegal Services, Inc.

A **motion** was made by Nancy Swetnam and seconded by Virlynn Tinnell to defer consideration of Business Entity Exemption to the applicants listed above for 30 days. Motion Passed. **LDP-04-056**

Linda Grau reported she attempted to contact Ms. Reedy-Creasy by mail. The letter is being returned to the program as un-retrieved. Ms. Grau recommended the applicant be permitted to withdraw from the preceding related to the denial of hearing and the hearing process be vacated. The Board discussed the hearing process and the ability of the applicant to withdraw. The Hearing Officer did enter an order stating all matters are dismissed.

Marilyn Reedy-Creasy

A **motion** was made by Judge Roland J. Steinle and duly seconded to allow the above applicant to withdraw her request for hearing, and affirm the prior determination denying individual certification. Motion Passed. **LDP-04-057**

Linda Grau recommended the business entity application be denied pursuant to Arizona Code of Judicial Administration §7-208, section (E)(5)(b)(1)(h) based on the designated principal being found civilly liable in Court actions involving fraud and misappropriation.

Amish Ventures, Inc.

A **motion** was made by Judge Roland J. Steinle and seconded by Donald F. Steward to deny request to withdraw Initial Business Entity Application of Amish Ventures, Inc. Motion Passed. **LDP-04-058**

A **motion** was made by Judge Roland J. Steinle and seconded by Dr. Roger E. Hartley to deny certification of Amish Ventures, Inc. pursuant to Arizona Code of Judicial Administration §§7-208, section (E)(5)(b)(1)(h) based on the designated principal being found civilly liable in Court actions involving fraud and misappropriation. Motion Passed. **LDP-04-059**

Linda Grau recommended the individual application be denied pursuant to Arizona Code of Judicial Administration §7-208, section (E)(5)(b)(1)(c) for the applicant's failure to disclose his recent misdemeanor convictions, pursuant to Arizona Code of Judicial Administration §7-208, section (E)(5)(b)(1)(d) noting the November 13, 2003 misdemeanor convictions, and based on Arizona Code of Judicial Administration §7-208, section (E)(5)(b)(1)(g) regarding the applicant previously having been denied his right to practice law in the U.S. District Court of Northern Texas as well as his current suspended status with the District of Columbia Bar.

Paul Demos

A **motion** was made by Judge Roland J. Steinle and seconded by Nancy Swetnam to deny certification of Paul Demos pursuant to Arizona Code of Judicial Administration §7-208, section (E)(5)(b)(1)(c) for the applicant's failure to disclose his recent misdemeanor convictions and Arizona Code of Judicial Administration §7-208, section (E)(5)(b)(1)(g) regarding the applicant previously having been denied his right to practice law in the U.S. District Court of Northern Texas as well as his suspended status with the Bar of the District of Columbia. Motion Passed. **LDP-04-060**

The Board discussed considering a possible request for a Code revision addressing repeated applications being submitted by previously denied applicant. The Board requested this issue be place on the next agenda.

Review and Approval of Meeting Minutes (Continued)

A **motion** was made by Judge Roland J. Steinle and seconded by Donald F. Steward to adopt the Executive Session minutes of January 26, 2004, as amended in Executive Session. Motion Passed. **LDP-04-061**

Call to the Public

There was no response.

Adjournment

A **motion** was made by Margaret J. Kleinman and seconded by Susan C. Vasquez to adjourn. Motion passed. **LDP-04-062**

The meeting of the Board of Legal Document Preparers adjourned at 1:37 p.m.